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9 **UNITED STATES DISTRICT COURT**
10 **FOR THE DISTRICT OF ARIZONA**

11 **RHONDA BIRKBECK,**) Case No.
12)
13 Plaintiff,) **COMPLAINT**
14)
15 vs.)
16)
17 **MIDLAND CREDIT MANAGEMENT,**
18 **INC.,**)
19)
20 Defendant.)

21 **I. INTRODUCTION**

22 1. This is an action for damages brought by an individual consumer for
23 Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et*
24 *seq.* (hereinafter "FDCPA"), which prohibits debt collectors from engaging in abusive,
25 deceptive, and unfair practices. Plaintiff further alleges a claim for invasion of privacy
26 ancillary to Defendant's collection efforts.

27 **II. JURISDICTION**

28 2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d).

III. PARTIES

3. Plaintiff, Rhonda Birkbeck, is a natural person residing in Main.

4. Plaintiff is a "consumer" as defined by the FDCPA, 15 U.S.C. § 1692a(3).

1 5. Defendant, Midland Credit Management, Inc., is a corporation engaged in the
2 business of collecting debts by use of the mails and telephone, and Defendant regularly
3 attempts to collect debts alleged to be due another.
4

5 6. Defendant is a “debt collector” as defined by the FDCPA, 15 U.S.C. §
6 1692a(6) trying to collect a “debt” as defined by 15 U.S.C. §1692(a)(5).
7

8 **IV. FACTUAL ALLEGATIONS**

9 7. At various and multiple times prior to the filing of the instant complaint,
10 including within the one year preceding the filing of this complaint, Defendant
11 contacted Plaintiff in an attempt to collect an alleged outstanding debt. Defendant’s
12 conduct violated the FDCPA in multiple ways, including but not limited to:
13

- 14 a) Failing to provide Plaintiff with the notices required by 15 USC § 1692g,
15 either in the initial communication with Plaintiff, or in writing within 5
16 days thereof (§ 1692g(a));
- 17 b) Overshadowing the disclosures required by 15 USC § 1692g(a) during the
18 thirty-day dispute period, including threatening legal action and that
19 negative reports will be placed on Plaintiffs credit report (§ 1692g(b));
20
- 21 c) Using false representations and deceptive practices in connection with
22 collection of an alleged debt from Plaintiff, including using language that
23 would confuse the least sophisticated consumer with respect to his or her
24 rights with regard to Defendant’s credit reporting (§ 1692e(10)).
25
26
27
28

COUNT I: VIOLATION OF FAIR DEBT
COLLECTION PRACTICES ACT

10. Plaintiff reincorporates by reference all of the preceding paragraphs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA;
- B. Actual damages;
- C. Statutory damages;
- D. Costs and reasonable attorney's fees; and,
- E. For such other and further relief as may be just and proper.

PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

Respectfully submitted this 12th day of August, 2009

By: s/ Marshall Meyers
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